IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 26TH JUNE 2007 / 5TH ASHADHA 1929

Crl.Rev.Pet.No. 180 of 2000(C)

CRA.37/1996 of ADDL.SESSIONS COURT, KOTTAYAM DT.7.12.1999.
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REVN. PETITIONER: 2ND RESPONDENT/ COMPLAINANT

P.SOMASUNDARAM,
S/O. K.K.PADMANABHAN, SUNDAR BHAVAN,
PUZHAVATHU, CHANGANACHERRY.

BY ADV. SMT.N.SUDHA DEVI

RESPONDENTS: APPELLANT/ ACCUSED
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1. **STATE OF KERALA,**
   REP.BY PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA.

2. **P.N.A.SIYED, PUTHUPARAMBIL HOUSE,**
   NEAR C.S.I. CHURCH, CHANGANACHERRY.

BY PUBLIC PROSECUTOR SRI.C.M.KAMMAPU

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 13/06/2007, THE COURT ON 26/06/2007 PASSED THE FOLLOWING:

ORDER ON CRL.MP.NO.1039/2000 IN CRL.RP.180/2000

DISMISSED

26.06.2007 **SD/- K.R.UDAYABHANU , JUDGE**

/TRUE COPY/

P.S. TO JUDGE

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K.R. UDAYABHANU, J.

CRL.R.P.NO.180 of 2000-C

DATED THIS THE 26TH JUNE 2007

ORDER

The revision petitioner is the complainant in C.C.No.615/1994, the proceedings initiated under Section 138 of the Negotiable Instruments Act which stands dismissed as per the order of the appellate court that reversed the findings of the trial court. The appellate court found that the decision of the trial court cannot be upheld, set aside the same and remitted the matter to the court below for fresh disposal after affording further opportunity to parties to adduce evidence if they so desire.

2. The case of the complainant is that a sum of Rs. 4,50,000/- was borrowed by the accused and towards discharge of the same, the impugned cheque was issued which when presented got dishonoured for want of funds in the account of the accused. Statutory formalities of issuing notice within the time limit stipulated was complied with.

3. The evidence adduced in the matter consisted of the

testimony of PW1 and Exts.P1 toP6. The defence got examined as DW1, the accused himself.

4. On a consideration of the evidence adduced in the matter and the decision of the courts below, I find that the order of the appellate court is a well considered one and that analyse the evidence meticulously; and as it was felt that the prosecution evidence is not sufficiently convincing so as to enter a finding as to the guilt of the accused beyond reasonable doubt, the order of the court below was set aside and the matter was remitted to the court below for a fresh disposal. I find that a detailed consideration of the evidence adduced and the findings of the courts below may result in observations that may prejudice to the court below.

In the circumstances, I am inclined to dismiss the revision petition upholding the judgment of the appellate court. The Crl.revision petition is dismissed. The parties are directed to appear before the court below on 26-7-2007.

ks. **K.R.UDAYABHANU, JUDGE**

K.R.UDAYABHANU, J

CRL.R.P.NO180 of 2000-C

ORDER

26-6--2007

ks.